

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6633 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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KHENERBHAI V PARMAR

Versus

GUJARAT DAIRY DEVELOPMENT CORPORATION LTD

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Appearance:

MS SUMAN KHARE FOR MR RK MISHRA for Petitioner

MR ND SONGARA for Respondent No. 1

MR TR MISHRA for Respondent No. 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 13/10/1999

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. By this writ petition, the petitioner an employee of respondent No.2 challenges the order of respondent No.2, under which the respondent No.3 was promoted to the post of Labour Welfare Assistant.

#. It is not in dispute that the criteria for promotion to the said post to be applied is seniority-cum-merit.

#. The learned counsel for the petitioner contended that as this criteria for promotion was there, when nothing adverse was there in the service record of the petitioner, he should have been considered for promotion.

#. I do not find any merits in this contention. From the reply to the special civil application, I find that the petitioner was a junior clerk in the pay-scale of Rs.100-215 whereas the respondent No.3 was a supervisor in the pay scale of Rs.290-480. The junior clerk was not preferred and in case where the supervisor was preferred to give promotion to the post of Labour Welfare Assistant, this action cannot be taken to be illegal or arbitrary. In the matter of promotion, suitable person has to be given the promotion and in the present case when employees from two different categories were to be considered, and when the employee from supervisory category having higher pay scale has been preferred, then no exception can be taken to the same under Article 226 of the Constitution of India.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

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[sunil]